DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service
Food and Drug Administration

MD806n

San Francisco District
1431 Harbor Bay Parkway
Alameda, CA 94502-7070
Telephone: 510/337-6700

Via Federal Express

Our Reference: 29-54464

July 26, 1999

Mr. David W. Lemstra, Manager
Westview Dairy
20798 Road 28
Tulare, California 93274

WARNING LETTER

Dear Mr. Lemstra:

Tissue residue reports from the United States Department of Agriculture (USDA) and an investigation of your dairy on July 1, 1999, by Food and Drug Administration (FDA) Investigator Robert J. Anderson has revealed serious violations of the Federal Food, Drug, and Cosmetic Act as follows:

A food is adulterated under Section 402(a)(2)(C)(ii) of the Act if it contains a new animal drug that is unsafe within the meaning of Section 512. On May 7, 1999, you consigned a dairy cow (identified by USDA laboratory report number 277133) to be slaughtered for human food. This cow was delivered for introduction into interstate commerce by your firm and was adulterated by the presence of illegal drug residues. USDA analysis of tissues from this cow revealed oxytetracycline in the kidney at 27.00 parts per million (ppm). Presently, the tolerance level for oxytetracycline in the uncooked edible tissues of cattle is 12.00 ppm in the kidney. The USDA analysis also revealed sulfadimethoxine in the liver at 13.00 ppm and in the muscle at 9.30 ppm. Presently, the tolerance level for sulfadimethoxine in the uncooked edible tissues of cattle is 0.10 ppm.

A food is adulterated under Section 402(a)(4) of the Act "if it has been prepared, packed, or held under insanitary conditions...whereby it may have been rendered injurious to health." As it applies in this case, "insanitary conditions" means that you hold animals which are ultimately offered for sale for slaughter as food under conditions which are so inadequate that medicated animals bearing possibly harmful drug residues are likely to enter the food supply. For example, our investigator noted the following:

1. You lack an adequate system for determining the medication status of animals you offer for slaughter.

2. You lack an adequate system in order to assure that animals to which you administer medication have been withheld from slaughter for appropriate periods of time to deplete potentially hazardous residues of drugs.

3. You lack an adequate system in order to assure that drugs are used in a manner not contrary to the directions contained in their labeling.

4. You lack an adequate inventory system for determining the quantities of drugs used to medicate your cows and calves.

You are adulterating the drug Oxy-Tet 100 brand of oxytetracycline hydrochloride within the meaning of Section 501(a)(5) of the Act, in that it is a new animal drug within the meaning of Section 201(v) and is unsafe within the meaning of Section 512(a)(1)(B) since it is not being used in conformance with approved labeling. Your veterinarian's prescription labeling for Oxy-Tet 100 specifies a twenty-eight day withdrawal time prior to slaughter. Your practice of administering Oxy-Tet 100, coupled with an inadequate withdrawal time, presents a possibility that illegal residues will occur and is likely the cause of the illegal residue found in the cow you sold for food use.

You are adulterating the drug Durvet brand of Sulfadimethoxine Injection 40% within the meaning of Section 501(a)(5) of the Act, in that it is a new animal drug within the meaning of Section 201(v) and is unsafe within the meaning of Section 512(a)(1)(B) since it is not being used in conformance with approved labeling. Labeling for Sulfadimethoxine Injection prescribes a five day withdrawal time prior to slaughter. Your practice of administering Sulfadimethoxine Injection, coupled with an inadequate withdrawal time, presents a possibility that illegal residues will occur and is likely the cause of the illegal residue found in the cow you sold for food use.

Failure to comply with the label instructions on drugs you use to treat your animals presents the likely possibility that illegal residues will occur and makes the drugs unsafe for use. We request that you take prompt action to ensure that animals which you offer for sale as human food will not be adulterated with drugs or contain illegal residues.

Introducing adulterated foods into interstate commerce is a violation of Section 301(a) of the Act. Causing the adulteration of drugs after receipt in interstate commerce is a violation of Section 301(k) of the Act.

You should be aware that it is not necessary for you to have personally shipped an adulterated animal in interstate commerce to be responsible for a violation of the Act. The fact that you offered an adulterated animal for sale to a slaughter facility where it was held for sale in interstate commerce is sufficient to make you responsible for violations of the Act.

This is not intended to be an all-inclusive list of violations. It is your responsibility to ensure that all requirements of the Act are being met. Failure to achieve prompt corrections may result in enforcement action without further notice, including seizure and/or injunction.

Within fifteen (15) days of the receipt of this letter, please notify our Fresno resident post office in writing of the specific steps you have taken to correct these violations and preclude their recurrence. If corrective action cannot be completed within fifteen working days, state the reason for the delay and the time frame within which corrections will be completed. Your response should address each discrepancy brought to your attention during the inspection and in this letter, and should include copies of any documentation demonstrating that corrections have been made. Please direct your reply to Robert J. Anderson, Investigator, United States Food and Drug Administration, 2202 Monterey Street, Suite 104E, Fresno, California, 93721.

Sincerely yours,

Patricia Ziobro

Patricia Ziobro
Director
San Francisco District

cc: [redacted]

Walter Lemstra
3797 Avenue 248
Tulare, California 93274